IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

MFA.No. 1387 of 2000()

OA.41/1997 of FOREST TRIBUNAL, KOZHIKODE
.....

APPELLANT/APPELLANT:

UNNIAMMA,W/O.KUNCHAN,
KOTTAYIN HOUSE, MALESAMANGALAM,
THIRUVILLAMALA VILLAGE,
THALAPPALLI TALUK.

BY ADV. SRI.D.KRISHNA PRASAD
SRI.D.NARENDRANATH
SRI.JOJI VARGHESE
SRI.M.HARISHARMA
SRI.T.P.ELDHOSE

RESPONDENTS/RESPONDENTS:

1.STATE OF KERALA, REP. BY THE CHIEF SECRETARY,
GOVT. OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM.

2.THE CUSTODIAN OF VESTED FOREST, ARANYABHAVAN FOREST COMPLEX, RLY. COLONY ROAD, OLAVAKKODE, PALAKKAD.

BY GOVERNMENT PLEADER SRI.M.P.PRAKASH

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1387 OF 2000 (D)

Dated this the 23th day of October, 2007

J U D G M E N T

KOSHY,J.

The appellant approached the Forest Tribunal contending that his property extending 2 acres and 68 cents of land was not a private forest. But State is taking steps to take over the land. It was found by the tribunal on the basis of evidence that the area under dispute was dense forest. Admittedly, there was no cultivation in the property. It is the case of the petitioner that there was intention to cultivate. But tribunal noticed that in 1997 no cultivation was done even though land vested automatically in the Government in 1971. No effort was done to cultivate the disputed land. Therefore appellant had intention to cultivate the property on the relevant date has no basis. Title of the land was also not proved. In the above circumstances, tribunal on the basis of evidence including Commission report etc. found that it was a private forest vested

under Section 3(1) of the Kerala Private Forest (Vesting and Assignment) Act, 1971 and claimant is not entitled to the benefit under Sections 3(2) or 3(3) of the Act. We agree with the findings of the tribunal and hence this appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

prp

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1387 OF 2000 (D)

J U D G M E N T

23rd October, 2007